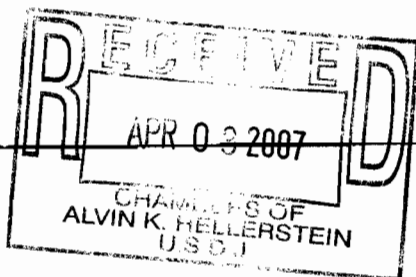


U.S. Department of Justice



United States Attorney
Southern District of New York

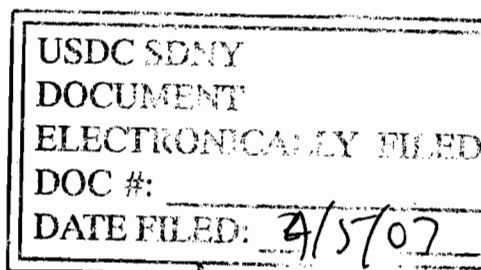


The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

April 2, 2007

BY FACSIMILE

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007



Conf is scheduled
for 4/13/07 @
12:00 p.m.

4-4-07

SO ORDERED, N.Y., N.Y.

KIMBA M. WOOD

U.S.D.J.

Re: United States v. William Henriquez and Alejo Polanco-Padilla
S3 05 Cr. 185 (AKH)

Dear Judge Hellerstein:

The Government respectfully submits this letter to request that the Court schedule a pretrial conference in this matter, this week, to discuss the status of the case and the upcoming trial. For the reasons set forth below, the Government anticipates that it will ask the Court to adjourn the trial date, which is currently set for April 23, 2007.

As the Court is aware, the above-referenced superseding indictment charges five defendants with robbery, murder and firearms charges stemming from the defendants' participation in a robbery in which a victim was shot and killed, on or about August 20, 2000, and it includes a death-eligible offense (murder). All of the charges in the indictment arise from a conspiracy in or about August 2000 and from the single-incident robbery and murder on or about August 20 of that year. To date, Henriquez, who was arrested in March 2005, and Polanco-Padilla, who was arrested in May 2006, are the only two defendants who have been arrested on these charges and who have appeared in this matter.

With respect to defendant Polanco-Padilla, the Government received a death penalty mitigation investigation and report from defense counsel last week. The Government will review the mitigation materials and conduct its internal review process within the next several weeks, at which time it will make its recommendation to the Capital Case Unit of the Department of Justice. The Government expects that it will take at least several months before the Department of Justice review is complete and a decision is made with respect to whether the Government will seek the death penalty in this case against Polanco-Padilla. Given the defendant's and the Government's interest in reviewing carefully the mitigation submissions and

incorporating them in the submission to the Department of Justice, it is extremely unlikely that any decision will be made before the trial is scheduled to begin on April 23.

With respect to defendant Henriquez, the parties have been engaged in discussions about a disposition of this matter over the past several months. Although we believe the parties are close to reaching a disposition of the matter, we have not been able to finalize the terms of a disposition.

Accordingly, the Government will request an adjournment of the April 23 trial date for two reasons. First, because the defendants acted together during the course of a single conspiracy and single incident of robbery and murder, it is far more efficient – for both the Court's and the Government's resources – to try both defendants together. Specifically, the Government anticipates that the witnesses and evidence necessary to prove its case against Henriquez will be largely, if not completely, the same as the witnesses and evidence necessary to prove its case against Polanco-Padilla. Accordingly, it makes the most sense to keep both defendants on the same schedule. Second, we believe we will be able to resolve Henriquez's case with some additional time for plea discussions and, based on the extended period of time during which Henriquez and the Government were engaged in plea discussions, it is the Government's understanding that Henriquez will not object to some adjournment of the trial date.

Thus, the Government respectfully requests that the Court schedule a status conference in this matter this week, at a time convenient to the Court, to discuss these matters. Thank you for your consideration of this request.

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

By: 

Jessica A. Masella
Assistant United States Attorney
(212) 637-2288

cc: Joel Stein, Esq.
Alan Haber, Esq.